

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	<b>2:15-cv-07090-RGK-(RAOx)</b>	<b>Date</b>	September 16, 2015
<b>Title</b>	<i>Berenice Monarrez v. Blitz USA, Inc. et al.</i>		

<b>Present: The Honorable</b>	<b>R. GARY KLAUSNER, U.S. DISTRICT JUDGE</b>
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Sharon L. Williams (Not Present)	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:

Not Present

Attorneys Present for Defendants:

Not Present

**Proceedings: (IN CHAMBERS) Order re: Remanding of Action to State Court**

On August 7, 2015, Berenice Monarrez ("Plaintiff") filed a complaint against Blitz USA, Inc. ("Blitz") and Home Depot U.S.A., Inc. ("Home Depot") alleging claims for (1) strict products liability, (2) breach of warranty, (3) breach of duty to provide adequate warnings, and (4) negligence. Plaintiff served the complaint on Home Depot on August 10, 2015.

On September 8, 2015, Home Depot filed a Notice of Removal of Action to this Court alleging jurisdiction on the grounds of diversity citizenship. Upon review of the Notice of Removal, and for the following reasons, the Court remands the action for lack of subject matter jurisdiction.

Pursuant to 28 U.S.C. § 1332, district courts shall have original jurisdiction over any civil action in which the parties are citizens of different states and the action involves an amount in controversy that exceeds \$75,000. After a plaintiff files a case in state court, the defendant attempting to remove the case to federal court bears the burden of proving the amount in controversy requirement has been met. *Abrego Abrego v. The Dow Chemical Co.*, 443 F.3d 676, 685 (9th Cir. 2006). If the complaint does not allege that the amount in controversy has been met, the removing defendant must supply this jurisdictional fact in the Notice of Removal by a preponderance of the evidence. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir. 1992).

Plaintiff's complaint does not provide any damage figures. To establish that the amount in controversy requirement has been met, Home Depot cites to portions of Plaintiff's complaint where Plaintiff describes, in general terms, that she sought medical attention after suffering injuries from a gas can explosion. Home Depot claims that it has reasonably ascertained that the amount in controversy

exceeds \$75,000, given the nature of Plaintiff's claimed injuries, damages, loss of future earnings, and diminution of earning capacity.

However, the Court finds Home Depot's claim too speculative, and its recitation of allegations in the complaint insufficient to show this jurisdictional fact by a preponderance of the evidence. Accordingly, Defendant has failed to satisfy its burden that the amount in controversy meets the jurisdictional requirement.

In light of the foregoing, the action is hereby **remanded** to state court for all further proceedings.

**IT IS SO ORDERED.**

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**Initials of Preparer**

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